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AGN. NO. _____

MOTION BY SUPERVISOR MICHAEL D. ANTONOVICH

JUNE 3, 2003

On April 29, 2001, Los Angeles County Deputy Sheriff David March was killed during a routine traffic stop in Irwindale. His killer, Armando Garcia, is believed to have fled to Mexico. Garcia is a three times deported criminal illegal alien who was wanted on attempted murder and weapons charges at the time he killed Deputy March. In October 2001, the Mexican Supreme Court ruled it unconstitutional to extradite any suspect whose offense would be punishable by the death penalty or life in prison without the guarantee of a determinate term.

The Mexican Constitution requires the Mexican government to place a suspect on trial in Mexico for a crime committed in another country, if extradition is denied based on nationality. Because Garcia is a Mexican national and the killing a peace officer is a capital offense in California, the Mexican government will refuse unconditional extradition and will then try him for murder in Mexico. If convicted, Garcia could be sentenced to anywhere between zero and 60 years in a Mexican jail. Additionally his sentence could be reduced on appeal, ordered served weekends or house arrest or he could be acquitted of all charges.

California is one of only six states which bars prosecution based on convictions or acquittals by foreign countries. Once Mexico places Garcia on trial for the murder of Deputy March or any related charge, jeopardy will attach and under California law, the District Attorney would be prohibited from ever prosecuting Garcia for the murder of Deputy March.

- MORE -

MOTION

MOLINA	_____
YAROSLAVSKY	_____
KNABE	_____
ANTONOVICH	_____
BURKE	_____

Assembly Bill 1432 (Firebaugh) would preserve the District Attorney's ability to file charges against Garcia or any other criminal who has fled to Mexico and voluntarily returned to the United States. Assembly Bill 1432 would eliminate those provisions of California law which bar California prosecution based on foreign convictions or acquittals, but at the same time, would provide credit for actual time served in a foreign country for the same crime. This bill will not only allow California prosecutors to place Armando Garcia on trial for the murder of Deputy March, but would also protect the District Attorney's ability to prosecute what is estimated to be hundreds of criminals who have fled to Mexico and might some day voluntarily return.

I, THEREFORE, MOVE THAT the Board of Supervisors direct the Executive Officer to send a five-signature letter to Governor Davis, the President Pro Tempore of the Senate, the Assembly Speaker, minority leaders in both the State Senate and Assembly, and the Los Angeles County Legislative Delegation in support of Assembly Bill 1432 (Firebaugh), which protects the District Attorney's ability to prosecute criminals who flee the United States.

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MDA:jhp
S/motions/AB1432 6-3-03



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

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DAVID E. JANSSEN
Chief Administrative Officer

May 30, 2003

To: Supervisor Yvonne Brathwaite Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich
From: *David E. Janssen*
David E. Janssen
Chief Administrative Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE BRATHWAITE BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

MOTION TO SUPPORT AB 1432 (FIREBAUGH) -- CRIMINAL PROSECUTION IN CALIFORNIA (ITEM NO. 8, AGENDA OF JUNE 3, 2003)

Item No. 8 on the June 3, 2003 Agenda is a motion by Supervisor Antonovich to support AB 1432 (Firebaugh), and to send a five signature letter of support to Governor Davis, the Senate President Pro Tempore, Assembly Speaker, Senate and Assembly Minority Leaders, and the Los Angeles County Legislative Delegation.

AB 1432 failed passage from the Assembly Appropriations Committee on May 28, 2003.

As amended on May 14, 2003, AB 1432 would have allowed a district attorney to prosecute a person who had been acquitted or convicted under the laws of another country for a crime committed in California. The bill also would have entitled a person who had been acquitted or convicted in another country for a crime committed in California to receive credit for any time served in a penal institution in the other country, if they were convicted in California.

The Federal and State Constitutions prohibit double jeopardy. The United States Supreme Court has determined that jeopardy does not attach to a defendant who has been convicted or acquitted in a foreign country and subsequent prosecution in the United States or its territories does not violate the double jeopardy clause. However, each state may increase double jeopardy protections beyond those afforded by either constitution. By statute, California provides greater protection against double jeopardy by prohibiting prosecution of those who have been convicted or acquitted in a foreign country. AB 1432 removes this statutory protection.

The District Attorney, the sponsor of AB 1432, indicates that a person who is accused of committing a serious crime in California and flees to Mexico will receive preferential treatment compared to those who remain in California. Those who flee to Mexico may either be prosecuted in Mexico or extradited. If they are prosecuted in Mexico, California district attorneys are barred from prosecuting the defendant. If extradition is sought, the Mexican government requires judicial assurances guarantying the defendant will not face life imprisonment or the death penalty. If assurances are granted, the defendant receives partial immunity from state laws. A recent Assembly Public Safety Committee analysis of AB 1432 noted that the existing statutes were enacted in 1872 and have remained unchanged for 130 years. The District Attorney concludes that the existing law creates an incentive for defendants to flee the country because they will benefit by either avoiding prosecution in California or receiving partial immunity from California's laws.

Under AB 1432, a defendant who flees California would have had the same rights as any defendant who commits a crime in California. A defendant who voluntarily returned to California after being convicted or acquitted of the crime by another jurisdiction would have been subject to the penalties provided under California law and would have received full credit for time served in a penal institution.

The District Attorney's legislative staff indicates that they intend to seek reintroduction of AB 1432 next year. The Sheriff will support the District Attorney's effort to reintroduce the measure because it will allow prosecution of defendants who have fled and returned to California, and facilitates equal treatment of all defendants. **Therefore, the District Attorney recommends that the County support AB 1432 in order to establish Board policy to support reintroduction of the measure. Because there is no existing Board policy regarding protections against double jeopardy in California, a position on AB 1432 is a matter for Board policy determination.**

AB 1432 was supported by the California Narcotic Officers' Association, the Government Relations Oversight Committee, the Association for Los Angeles Deputy Sheriffs, Los Angeles County Probation Officers Union, Los Angeles Police Protective League and the Riverside Sheriff's Association. It was opposed by the California Attorneys for Criminal Justice.

DEJ:GK
MAL:JL:lm

c: Executive Officer, Board of Supervisors
 County Counsel
 District Attorney
 Sheriff